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March 23, 2012

**VIA CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED**  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

Re: Mark Miller v. Fred Kundrata, et al.

Dear Sir or Madam:

Enclosed please find a complaint and seven (7) copies for review by the Office of General Counsel. Please review and return a copy in the self-addressed stamped envelope. Please do not hesitate to contact me with any questions or concerns.

Very truly yours,

FINNEY, STAGNARO,  
SABA & PATTERSON CO., L.P.A.

By:

Christopher P. Finney, Esq.

cc: Mark Miller

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
2012 MAR 28 PM 4:29  
OFFICE OF GENERAL  
COUNSEL

MUR # 6545

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**FEDERAL ELECTION COMMISSION**

**Mark Miller**

**Cincinnati, OH 45208**

**Complainant**

**v.**

**Fred Kundra, III**

**Cincinnati, OH 45208**

**and**

**Fred Kundra for Congress Committee (C00506279)**

**120 East 4<sup>th</sup> Street, Suite 1040**

**Cincinnati, OH 45202**

**and**

**William Bristol**

**120 East 4<sup>th</sup> Street, Suite 1040**

**Cincinnati, OH 45202**

**and**

**Robert L. Saur, Jr.**

**Cincinnati, OH 45211**

**Respondents**

**COMPLAINT**

Complainant files this complaint under 2 U.S.C. § 437(g)(a)(1) against Fred Kundra, III; Fred Kundra for Congress Committee; William Bristol; and Robert L. Saur, Jr. for violations of the Federal Elections Campaign Act (FECA or The Act), as described below.

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## **A. FACTS**

Complainant is Mark Miller, a citizen of the United States of America.

Respondent Fred Kandrata, III was a candidate for Congress in the Primary election held March 6, 2012 in Ohio. Mr. Kandrata was a candidate to be the Republican nominee for Congress in Ohio's Second Congressional District.

Respondent Fred Kandrata for Congress Committee (C00506279) is the principal campaign committee of Fred Kandrata, III in his campaign for election to the United States House of Representatives in 2012.

Respondent William Bristol is the duly authorized treasurer of Fred Kandrata for Congress Committee according to filings made by Fred Kandrata for Congress Committee.

Respondent Robert L. Sauers, Jr. is the duly authorized assistant treasurer of Fred Kandrata for Congress Committee according to filings made by Fred Kandrata for Congress Committee.

Based upon information and belief respondents have failed to report receipts and disbursements of Fred Kandrata for Congress Committee as required by FECA; have misidentified the sources of funds; have failed to report contributions and/or an indebtedness; have failed to report expenditures; and have failed to timely file a Statement of Candidacy.

## **B. SPECIFIC ALLEGATIONS**

### **1. FAILURE TO FILE PRE-PRIMARY REPORT**

Pursuant to 2 U.S.C. § 434(a)(2) and 11 CFR 104.5(a)(2)(i) Congressional Campaign Committees are required to file a pre-primary report "no later than 12 days before any primary...election in which the candidate seeks election."<sup>1</sup>

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<sup>1</sup> 11 CFR 104.5(a)(2)(i)

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A review of the online filings at the FEC website, [www.fec.gov](http://www.fec.gov), shows that Fred Kundrata for Congress Committee (C00506279) did not file a pre-primary report 12 days before the primary election in which Fred Kundrata, III sought election (i.e. the Ohio Primary election held on March 6, 2012). Further, as of March 16, 2012, Kundrata for Congress Committee still has not filed the required pre-primary report. As such, Respondents are in violation of FECA, specifically 2 U.S.C. § 434(a)(2).

## **2. FAILURE TO IDENTIFY THE SOURCE OF LOANS**

11 CFR 104.3(a)(3)(vii) requires that the source of loans to a campaign committee be reported as part of the quarterly and Pre-Primary filings. In its January 30, 2012 filing, Kundrata for Congress Committee lists two loans. The first loan of \$500 is dated November 4, 2011 with a 1% interest rate. The second loan of \$12,246.08 is dated December 1, 2011, also carrying a 1% interest rate. The source of both loans is reported as "Fred Kundrata for Congress Committee." It would seem to be an impossibility for Kundrata for Congress Committee to loan itself money – particularly in light of the fact that Kundrata for Congress Committee reported only \$100 in contributions. Clearly then, respondents have, either inadvertently or intentionally, failed to identify the source of the loans, in violation of 11 CFR 104.3(a)(3)(vii).

## **3. FAILURE TO REPORT CONTRIBUTIONS AND/OR AN INDEBTEDNESS**

11 CFR 104.3(a) requires each report filed to disclose the amounts and sources of receipts. Kundrata for Congress Committee reports as its first filing a loan dated November 4, 2011 in the amount of \$500. However, Kundrata for Congress Committee reports two disbursements of \$4605.00 each on October 11, 2011 to Pixels and Dots for "web design." Assuming that Kundrata for Congress Committee had not received unreported contributions prior to October 11, 2011, it would appear that for approximately three weeks, Kundrata for

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Congress Committee was indebted to Pixels and Dots in the amount of \$9210.00. And for approximately another month that indebtedness was approximately \$8710.00. It could not have been until December 1, 2011 (the date of the \$12,246.08 loan) that Kundra for Congress Committee could possibly have made full payment on the Pixels and Dots disbursements.

Additionally, further disbursements were made during the time for which Kundra for Congress Committee's account balance must necessarily have been negative. Again, absent unreported contributions, there is an unreported indebtedness.

If there was no unreported indebtedness, it can only be because there were unreported contributions. Regardless of whether the committee failed to report contributions or indebtedness, Respondents have failed to comply with the requirements of FECA.

#### **4. FAILURE TO REPORT EXPENDITURES AND RECEIPTS**

On or about February 6, 2012 at 10:59 am Fred Kundra, III posted a photograph of his vehicle which had been professionally wrapped in advertising for his campaign.<sup>2</sup> The end of year filing which Kundra for Congress Committee filed with the FEC on January 31, 2012 does not indicate that this was paid for during the fourth quarter of 2011. Obviously, the work must have been done prior to February 6, 2012. As such, Respondents either failed to include the expenditure as part of the end of year filing, or the expenditure occurred between January 1, 2012 and February 15, 2012 – the relevant timeframe for the Pre-Primary report. Thus, Respondents have failed to report this expenditure – either by omitting it from the end of year report, or by failing to file a Pre-Primary Report.

Additionally, Kundra for Congress Committee reported cash on hand as of December 31, 2011 of \$592. Upon information and belief the cost of a vehicle advertising wrap is in excess

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<sup>2</sup> I have attached images of the vehicle posted by Respondent, Fred Kundra, III on the Twitter page for Fred Kundra for Congress Committee.

of \$592. Therefore, it is incontrovertible that Kundra for Congress Committee must necessarily have received additional receipts between January 1, 2012 and February 15, 2012. Receipts the Respondents were required to include in the Pre-Primary Report – which Respondents conveniently failed to file.

#### **5. FAILURE TO TIMELY FILE STATEMENT OF CANDIDACY**

Candidates for federal office are required to file a Statement of Candidacy within 15 days of qualifying as a candidate.<sup>3</sup> A candidate qualifies by receiving "contributions aggregating in excess of \$5,000 [or by making] expenditures aggregating in excess of \$5,000."<sup>4</sup> Fred Kundra for Congress Committee reports disbursements totaling \$9,210.00 on October 11, 2011. Therefore, Fred Kundra, III qualified as a candidate no later than October 11, 2011. Fred Kundra, III was thusly required to file a Statement of Candidacy no later than October 26, 2011. However, Kundra did not prepare a Statement of Candidacy until November 15, 2011. The Statement of Candidacy was not received by the Federal Election Commission until November 21, 2011. Thus, Respondents did not timely file a Statement of Candidacy as required by the Act.

#### **C. IRREGULARITIES IN THE OHIO PRIMARY ELECTION**

In the closing days of the Ohio Primary election of March 6, 2012, Democrat voters received automated phone calls paid for by an entity called The Ohio Victory SuperPac. However, no such entity has filed either with the Federal Election Commission or the Ohio Secretary of State. It is my understanding that the Justice Department is looking into these calls to determine who was behind them.

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<sup>3</sup> 2 U.S.C. § 432(E) and 11 C.F.R. 101.1(a).

<sup>4</sup> 2 U.S.C. § 431 (2)(A).

While there is no evidence or allegation that Respondents have any connection to the phone calls, these calls, and the current investigation into them, underscores the importance of FECA, and the necessity that candidates and candidate committees comply with FECA and the relevant regulations.

Moreover, it is certainly curious that in the same election in which there are mysterious "robocalls" in the Democratic Primary, that one of the candidates in the Republican Primary fails so fantastically to comply with the laws and regulations aimed at transparency in campaign finance.

#### **D. CONCLUSION**

In light of the foregoing, it would appear obvious that Respondents have failed to report receipts and disbursements of Fred Kundrata for Congress Committee as required by FECA; have misidentified the sources of funds; have failed to report contributions and/or an indebtedness; have failed to report expenditures; and failed to timely file a Statement of Candidacy.

WHEREFORE, Mark Miller requests that the Federal Election Commission undertake an investigation and enforcement action regarding Respondents' failure to comply with FECA; to determine the sources of funding of Kundrata for Congress Committee; and to forward their findings to the appropriate law enforcement agencies for prosecution.




Mark Miller

Cincinnati, OH 45208

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Mark Miller hereby verifies that the statements made in the attached Complaint are, upon information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.

  
Mark Miller

Sworn to and subscribed before me this 2<sup>nd</sup> day of March, 2012

  
Notary Public



Elizabeth A. Fisher  
Notary Public, State of Ohio  
My Commission Expires 11-15-2016



**Fred Kundrata** @FredKundrata

Close



Yes, this vehicle has been seen around Ohio's 2nd District delivering a message of conservative, leadership... [fb.me/1yozM3RYrQ](https://fb.me/1yozM3RYrQ)

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